

the same to be distributed as the available school fund is now distributed and create an emergency."

Read first time and referred to Committee on Finance.

Bills Signed.

The Chair, Lieutenant Governor Davidson, signed, in the presence of the Senate, after their captions had been read, the following bills:

S. B. No. 1, mileage and per diem.

S. B. No. 2, contingent expenses.

Adjournment.

Senator Pollard, at 3:30 p. m., moved that the Senate adjourn until tomorrow morning at 10 o'clock, which motion was adopted.

APPENDIX.

Committee Reports.

(Floor Report.)

Senate Chamber,

Austin, Texas, January 14, 1925.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Federal Relations, to whom was referred

Senate Resolution No. 8, in reference to Federal aid and fifty-fifty appropriations, beg to report that same was examined, and we recommend that it be passed as submitted.

POLLARD, Vice-Chairman.

Committee Room,

Austin, Texas, January 14, 1925.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence, to whom was referred

S. B. No. 7, A bill to be entitled "An Act to adopt and establish a Penal Code and a Code of Criminal Procedure for the State of Texas."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass and be not printed.

WARD, Chairman.

FOURTH DAY.

Senate Chamber,

Austin, Texas,

Friday, January 16, 1925.

The Senate met at 10 o'clock a.

m., pursuant to adjournment, and was called to order by Lieutenant Governor Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Berkeley.	Pollard.
Bledsoe.	Price.
Bowers.	Real.
Davis.	Reid.
Fairchild.	Russek.
Floyd.	Smith.
Hardin of Erath.	Strong.
Hardin of Kaufman.	Stuart.
Holbrook.	Triplett.
Miller.	Ward.
Moore of Hunt.	Witt.
Parnell.	Wood.
Parr.	Woodward.

Absent.

Wirtz.

Absent—Excused.

Bailey.

Moore of Cooke.

Lewis.

Murphy.

Prayer by the Chaplain, Rev. Randolph Clark.

Pending the reading of the Journal of yesterday, the same was dispensed with, on motion of Senator Davis.

Excused.

Senator Moore of Cook, on account of illness, and on motion of Senator Russek.

Senator Lewis, on account of important business, on motion of Senator Stuart.

Senator Murphy, for today, on account of illness, on motion of Senator Witt.

Senator Wirtz for today, on account of business and on motion of Senator Holbrook.

Bills and Resolutions.

By Senator Pollard:

S. B. No. 56, A bill to be entitled "An Act to require all railway companies, and all other persons, firms and corporations to place all bridges, viaducts, overheadways, foot bridges, or wires wherever built or placed over the tracks of a railway not less than twenty-two (22) feet from the top of the rails of such track, and to place all loading platforms, houses, structures, fences, lumber, wood and other materials wherever built, placed or stored along railway lines, spurs, switches or sidings not less than (6) feet from the outside rails

of such main line, spur, switch or siding track; providing distance of roof of loading platforms from such track; providing a penalty for the violation of such Act, to be collected by civil suit; providing for the promulgation of rules by the Railroad Commission in accordance with the Act, for the supervision by the Commission of the enforcement of such rules, and reporting any violation of the Act to the Attorney General; providing further for modification of the requirements of the Act by the Railroad Commission in stipulated cases; and declaring an emergency."

Read and referred to the Committee on Internal Improvements.

By Senator Pollard:

S. B. No. 57, A bill to be entitled "An Act to limit the weights of wagons or other vehicles drawn or propelled by muscular power which may be operated on the public highways; prescribing penalties; and declaring an emergency."

Read first time and referred to Committee on Criminal Jurisprudence.

By Senator John Davis:

S. B. No. 58, A bill to be entitled "An Act to amend Section 3, Chapter 25 of the General Laws of the State of Texas passed by the Thirty-sixth Legislature, at the Regular Session thereof in 1919 entitled, 'An Act to fix the compensation of county and district courts' jurors in both civil and criminal cases, jury commissions of the district and county courts and bailiffs of the grand jury; the amendment being to the effect that each grand jury bailiff appointed as such bailiff by the court in counties of 150,000 population and more according to the 1920 census of the United States shall receive as compensation for his services the sum of \$5.00 for each day that he may serve as a grand jury bailiff."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Holbrook:

S. B. No. 59, A bill to be entitled "An Act operating and establishing Alvin Independent School District, in Brazoria County, Texas defining and describing it by metes and bounds, providing for the government thereof; providing for it to issue the outstanding school contracts and in-

debtedness applicable to the territory so included, vesting in it the title to all school property situated in the territory so included; providing for the government thereof as under the General Laws applicable to towns and villages incorporated for free school purposes only; providing for the extension of boundaries thereof; and declaring an emergency."

Read first time and referred to Committee on Educational Affairs.

By Senator Berkeley (By Request):

S. B. No. 60, A bill to be entitled "An Act to amend Article 1390, Title 28, Chapter 5 of the Revised Civil Statutes of the State of Texas of 1911, as amended by Acts of the Thirty-sixth Legislature, Second Called Session, S. B. No. 21, approved July 25, 1919, Chapter 29, relating to the proceedings for the removal of county seat, so as to provide that, in all counties regardless of the population thereof, the application for the election for said purpose shall be held sufficient when it shall have been signed by a majority of the resident freeholders and qualified voters of the county, whose names appear on the last approved and rendered resident assessment roll, said majority of freeholders and qualified voters to be determined by the county judge, or in case of his failure or inability to act, then by any two of the county commissioners of said county from the assessment rolls thereof. Said assessment rolls to be conclusive evidence of the sufficiency of the number of and qualification of the signers of said petition; and declaring an emergency."

Read first time and referred to Committee on Counties and County Boundaries.

By Senator Real:

S. B. No. 61, A bill to be entitled "An Act amending Section 77 of Chapter 87 of the General Laws enacted by the Thirty-fifth Legislature at its Regular Session."

Read first time and referred to Committee on State Affairs.

By Senators Fairchild, Russek and Hardin of Kaufman:

S. B. No. 62, A bill to be entitled "An Act vesting in the State of Texas for the benefit of the Texas State Railroad to the exclusion of all other governmental agencies of the State and the United States, title

to all steel rail now upon the road-bed of the Texas State Railroad, and allotted to the State of Texas by the United States from the surplus war materials of the Federal Government at the end of the late war; and providing that sale or other disposition of such Texas State Railroad, under authority of law, shall pass title to such steel rail as against all other State agencies; and declaring an emergency."

Read first time and referred to Committee on State Affairs.

Executive Session—Time Set For.

Senator Wood, at 10:12 o'clock a. m., moved that the Senate set in executive session at 11 o'clock today, January 16, for the purpose of considering the nominations by the Governor.

The motion was unanimously adopted.

At Ease.

On motion of Senator Strong the Senate was here at ease subject to call of Chair.

Executive Session.

At 11 o'clock the Senate was called to order by Lieutenant Governor Davidson, who announced that the hour had arrived for the Senate to resolve into executive session for the purpose of considering nominations by the Governor, and directed the Sergeant-at-Arms to clear the chamber of all visitors and employes.

In Open Session.

Following adjournment of the executive session the Senate convened.

Executive Confirmations.

The following nominations by the Governor were confirmed, report being made by the Secretary to the Journal Clerk, as provided by the rules:

Board or Regents, College of Industrial Arts: Mrs. Lee Joseph.

Board of Control: R. B. Walthall.

Industrial Accident Board: Mrs. Espa Stanford.

State Highway Commission: John H. Bickett.

State Mining Board: E. A. Camp, W. K. Gordon, John LeGory, Pete Kramer, D. B. Hollis, L. R. Stoddard, Adam R. Johnson.

Texas Historical Board: Lynch

Davidson, Mrs. Clara Driscoll Sevier, Tom L. McCullough, Mrs. J. M. Kincaid, Mrs. E. L. Perry.

Library and Historical Commission: Miss. Emma K. Burleson, Miss Kate Hunter, Miss Decca Lamar West, Rev. R. L. Irving.

University Acquisition Board: Guy Collett.

State Codifying Commission: C. H. Jenkins, E. T. Branch, June C. Harris.

Soldiers' Memorial Committee: Norman G. Kittrell, O. L. Baker, Q. C. Taylor.

Commission of Appeals (Section "A"): S. H. German, W. R. Bishop, W. R. Chapman. (Section "B"): Ben H. Powell, R. H. Hamilton, Robt. W. Stayton.

Court of Civil Appeals for the Tenth Supreme Judicial District: J. N. Gallagher, Geo. W. Barcus, Jno. W. Spivey.

Court of Civil Appeals for the Third Supreme Judicial District: J. H. Baugh, J. W. McClendon.

Court of Civil Appeals for the Fifth Supreme Judicial District: Ben F. Looney.

Court of Civil Appeals for the Seventh Supreme Judicial District: M. J. R. Jackson, H. C. Randolph.

Pilot Commissioners for Galveston: T. L. Cross, T. Waverly Smith, T. J. Anderson, John Young, Robt. I. Cohen.

Public Weighers for Galveston: E. K. Marrast, Worthy Boyd, O. R. Hoecker, J. E. Labuzen, C. M. Wolston, J. Garrison, H. T. Nelson.

Public Weighers for Harris County: John H. Lewis, Jules C. de la Moriniere, Albert Coles, John D. Wilford, T. E. Mulvihill, C. S. Kinney, Ed Morgan, David Rice, C. P. Reynaud, Richard J. Russell, C. G. Timins, H. Jeppeson, H. H. Utschulte, D. A. Daly, R. E. Tankersley.

Public Weigher for Texas City: Georg W. Lanman.

District Judges; Third Judicial District, Ben F. Dent; Eighth Judicial District, J. M. Melson; Thirty-ninth Judicial District, Bruce Bryant; Fifty-sixth Judicial District, Leo C. Brady; Sixtieth Judicial District, J. D. Campbell; Seventy-second Judicial District, Clark M. Mullican; Seventy-eighth Judicial District, Guy Rogers; Ninety-second Judicial District, Walter F. Schneck; Ninety-third Judicial District, L. J. Polk, Jr.; Ninety-fourth Judicial District, W. W. McCrory; Ninety-fifth Judicial

District, Royall R. Watkins; Ninety-sixth Judicial District, Hal S. Lattimore; Ninety-seventh Judicial District, Paul Donald, Vincent Stine; One Hundredth Judicial District, R. L. Templeton.

District Attorneys: Third Judicial District, Sam Holland; Fourth Judicial District, Major T. Bell; Fifth Judicial District, Wright Patman; Ninth Judicial District, J. L. Pitts; Twenty-fifth Judicial District, R. A. Weinert; Twenty-ninth Judicial District, Sam M. Russell; Thirtieth Judicial District, Bernard Martin, James V. Aallred; Thirty-second Judicial District, Jas. T. Brooks; Forty-sixth Judicial District, John A. Storey; Fiftieth Judicial District, Wm. B. Combest; Thirty-third Judicial District, F. H. Hammond; Sixty-third Judicial District, Julian LaCrosse; Sixty-seventh Judicial District, C. H. Machen; One Hundredth Judicial District, R. H. Beville.

For Court of Criminal Appeals: (a) Assistant Attorney General, Grover C. Morris; (b) Assistant Attorney General, Tom Garrard.

Commissioner of Banking: J. L. Chapman.

Game, Fish and Oyster Commissioner: W. W. Boyd.

Railroad Commissioners: W. A. Nabors, F. M. Splawn, C. V. Terrell.

State Fire Insurance Commissioner: G. N. Holton.

State Mine Inspector: N. M. Bullock.

Secretary of State: J. J. Strickland, Henry Hutchings.

State Treasurer: S. L. Staples.

Special Chief Justice and Special Associate Justices of the Supreme Court of Texas: Mrs. Hortense Ward, Miss Ruth Virginia Brazzil, Miss Hattie L. Henenbery.

Report on State Railroad.

Senator Fairchild offered the following report from the managers of the State Railroad and directed that the same be printed in the Journal.

Board of Managers, Texas
State Railroad.

Houston, Texas.

January 14, 1925.

Honorable Pat M. Neff,
Governor of Texas,
Austin, Texas.

Dear Sir:

As provided in Senate Bill No. 267, approved March 12, 1921, and amended by Senate Bill No. 69, approved January 18, 1923, we submit

herewith the semi-annual report of the Board of Managers of the Texas State Railroad, for the period from July 1, 1924, when the last report was made, to and including December 31, 1924.

Itemized statements covering all deposits of funds in the State Treasury, and all warrants, drawn upon the Treasury and disbursements made during the period for which this report is made, have been certified by the Comptroller of the State and are attached hereto as a part of this report, marked Exhibit "A."

Semi-annual reports have been made to the Governor, as required by the Act creating the Board of Managers. Attached to such semi-annual reports have been copies of the income and disbursement accounts of the Board, certified by the Comptroller; and there have also been attached to such reports made to the Governor by the Board, statements certified by the Comptroller of the State showing the amounts of money on hand at the dates such reports were made.

We deem it proper, in making this report, briefly to review the State Railroad's history and its administration by the Board of Managers.

The Board came into actual possession of the road under Senate Bill No. 267, on April 22, 1921. The road's physical condition at that time is fully described in the Board's report of March 9, 1922. It is sufficient to say here, therefore, that the road and its equipment and rolling stock, with the exception of one locomotive, was in a state of dilapidation. It was in such a state of bad repair that trains could not be run over the line with safety, and its operations were being conducted at a monthly deficit of from \$5,000 to \$8,000.

It had no passenger equipment of any kind that could be operated, and was leasing one coach from the Southern Pacific Lines with which to conduct its passenger business. All the passenger coaches belonging to the State Railroad, and transferred to the Board's possession along with the Railroad, are still on hand on a side track at Rusk, Texas. Attached to this report is a photograph of each of said passenger coaches in their present condition, which also reflects their condition at the time they were delivered to the Board of Managers.

While some of the State Railroad's

box and flat cars were usable for local traffic on the line, and for the transporting of company materials, they were not in condition to interchange with connecting lines, and no connecting lines would haul them. They were disposed of, therefore, in the manner described in our report of January 9, 1923.

The Railroad owned two locomotives. One was practically useless, and still is on hand at Palestine, Texas, as shown by photograph of same attached hereto. The other was in good condition, and was sold by the Board of Managers, as fully set forth in our report of January 9, 1923.

The road has been relaid with new 80-pound steel, obtained from the Federal Government. The freight charges on said new rail, cost of installation, and purchase price of fittings with which to install the rail, are set out in sundry reports heretofore made to the Governor, the Comptroller, and the Legislature of Texas.

The second-hand and old steel with which the road was laid when delivered to the Board of Managers was sold, as set out in report of January 9, 1923, detailing amounts received for same, and to whom sold.

One track mile of the old rail was retained by the Board of Managers for future needs in the construction of side tracks, spurs and switches.

The Act creating the Board of Managers gave them the use of 50 convicts for one year from March 12, 1921. The delay in obtaining their services, and the failure to secure the full number of convicts, together with the expense of providing quarters, etc., as set out in our report of March 9, 1922, resulted in loss instead of gain to the Board. In fact, very little substantial work was done with convicts, and the Board rebuilt the road, as set out in our report of January 9, 1923, by awarding contracts to railroad builders and contractors, paying such contracts out of its own funds.

From claims filed against the Federal government under the Transportation Act, 1920, the Board, through vigorous efforts, succeeded in collecting sums aggregating \$14,953.80, less expense of preparing and collecting claims, \$4,356.00, leaving a net recovery of \$10,597.80, which was duly transmitted to the State Treasury. Further claim approximating \$30,000 was filed with the Interstate Com-

merce Commission, but has been declined, and while the Board still is pressing this claim, any further recovery is considered improbable.

In the recent political campaign many misstatements were made about the State Railroad, in order to further and advance the political interests of candidates. Among them was a charge that the State does not own the new 80 pound steel upon its roadbed. Under the Federal Act allocating and awarding surplus was materials to the various states, the title to this rail is clearly in the State of Texas.

That this question may be quieted definitely, the Board of Managers secured from the Bureau of Good Roads, Agricultural Department of the United States, its ruling with respect to the title of said rail. The Federal department rules the rail to be "State property." We quote from its ruling as below:

"Under the situation as it exists, it does not appear to me that the question of jurisdiction of this steel rail is material as between different State agencies, since the property is in the possession of the State, and is State property."

This ruling and declaration is contained in a letter of December 16, 1924, by Thos. H. MacDonald, Chief of Bureau of Public Roads, United States Department of Agriculture, addressed to Lynch Davidson, Chairman of the Board of Managers, and R. M. Hubbard, Chairman of the Texas Highway Department; certified copy of which is attached hereto and made a part of this report, marked Exhibit "B."

In this same ruling the Federal government makes the further declaration:

"If, for better administration, it should be necessary for the State Highway Department to transfer this material to the jurisdiction of the Board of Managers of the Texas State Railroad, this would seem to me to contravene no Federal law, since the property does not pass from the State."

The Federal government, by the above quoted ruling, definitely vests title to the rail in the State of Texas, through the Texas Highway Department. By the Federal government ruling, it will contravene no Federal law to divest the Texas Highway De-

partment of title to the rail, and vest the same in the Texas State Railroads.

The Board of Managers recommends that legislation be enacted transferring title to the rail from the Texas Highway Department to the Texas State Railroad.

The ruling of December 16, 1924, attached hereto and marked Exhibit "B" further declares:

"The records here show that the transfer of this rail was made to the State under the provisions of the Kahn Act, which provided for the payment of 20 per cent of the estimated value of the property against which the freight charges paid by the shipper might be set off. This Act was preceded and succeeded by other Acts providing for the free distribution of war surplus to the States through the State Highway departments. The value of the rail was as fixed at the time of the transfer was \$35.00 per ton."

In divesting the Texas Highway Department of, and vesting the State Railroad with, title to the rail by legislation, due observance should be given to the Federal ruling on the question of the disposition of the road as a whole, should this be at issue. We interpret this ruling to mean that the road funds of the State of Texas, through its Highway Department, should receive the benefit of the proceeds of the sale equal to the fair value of the rail as first laid. The ruling draws attention to the provisions of the Kahn Act, and fixes the value of the rail at the time of transfer, at \$35.00 per ton. It provides for payment of 20 per cent of the estimated value of the property, from which may be deducted the freight charges paid by the buyer as a set-off.

Whether title to the rail is in the Highway Department of the State of Texas, or the Texas State Railroad is not consequential, for both departments in truth are the State of Texas. But politicians have excited the public mind with the question, and in the event of prospective sale of the road, such propaganda might superinduce the same question in the minds of over-technical buyers. Deeming it highly important that no opportunity be lost to sell the road when a favorable price can be obtained, the Board submits these suggestions and recommends their execution.

It was only after six months' vigor-

ous work on the State Railroad by the Board of Managers, including the securing of the new rail and insuring its installation, that the Board succeeded in placing it in condition acceptable to the Southern Pacific under lease. The operating lease was ratified by the Legislature August 25, 1921, became effective November 5, 1921, and will expire November 5, 1926.

On December 30, 1924, a complete inspection of the property was made by the Board of Managers, composed of Lynch Davidson, chairman; J. A. Glen and E. C. Durham, members; accompanied by L. H. Cecil, assistant vice president and general manager of the Southern Pacific Lines; H. M. Lull, chief engineer of the Southern Pacific Lines; H. J. Micksch, superintendent of the Beaumont Division of the Texas & New Orleans Railroad; and Thomas Scott, superintendent of the Jacksonville division of the Texas & New Orleans Railroad. This inspection was for the purpose of ascertaining the condition of the property in order that this report might be formulated and presented to the Governor and the Legislature in accordance with the Act creating the Board of Managers.

The Board is unanimous in its conclusion that the Southern Pacific Lines, in the matter of the continued physical betterment of the property, the effort to upbuild its traffic, and the custodianship of the property's general welfare under the terms of the contract, have abundantly surpassed the Board's expectations.

It is with gratification that the Board unanimously agrees in the observation in its report to Your Excellency and the Legislature of Texas that Mr. W. R. Scott, president of the Southern Pacific Lines; G. S. Waid, vice president and general manager of the Southern Pacific Lines; C. K. Dunlap, general traffic manager of the Southern Pacific Lines; and the other officials of the system named above, have co-operated together both with reference to the upbuilding of the physical condition of the property, the improvement of its traffic, and its general welfare, in a highly commendable manner. The Board of Managers hereby voice a vote of confidence in the operation and maintenance of the road by the Southern Pacific under the terms of the contract.

With its thirty-three miles of track, the State Railroad forms such an infinitesimal factor in the affairs of the

enormously large Southern Pacific system, it was gratifying to the Board to find all of the officers of the Southern Pacific taking a personal interest in the State Railroad, and familiar with its minutest details. The trainmen operating over the road, and the station agents and employes all seem to take a personal and patriotic interest in the success of the enterprise.

The interest in the Southern Pacific has been not only one of sentiment, but likewise one of substance. As will be shown by the operating report of the Southern Pacific reflecting its operations over the State Railroad from November 5, 1921, to and including November 30, 1924, attached hereto

marked Exhibit "C," the Southern Pacific Lines have invested \$204,332.89 more in the State Railroad than they have taken out in revenue.

The State's operating contract with the Southern Pacific Lines provides that it shall receive 50 per cent of all net earnings. It is to be seen from the operating report of the Southern Pacific, attached hereto, that the gross earnings of the road have been invested, to a major extent, in the upbuilding of the road, and the balance in its operating expenses.

During the period from November 5, 1921, to November 30, 1924, the Southern Pacific, as per Exhibit "C" attached, reports:

Operating income	\$185,427.26	
Property rentals	30.00	
Total income		\$185,457.26
Operating Expenses:		
Transportation	\$154,470.15	
Equipment rentals	11,362.37	
General expense	116.72	\$165,949.24
Net railway operating income.....		\$ 19,508.02
To Betterments:		
Maintenance of way and structures.....	\$172,839.96	
Maintenance of Equipment.....	51,000.95	\$223,840.91
Expended by Southern Pacific for rehabilitating and operating, in excess of income.....		\$204,332.89

The sum of \$172,839.96 has been invested in the actual upbuilding of the road. Instead of describing it as "Maintenance of Way and Structures," it should be described as "Restoration and Rehabilitation of the Line," as the State has got the full benefit in road betterment of all that sum expended.

The item of \$51,000.95 that has been invested in equipment upkeep would have gone likewise to the State's benefit if it had owned the equipment. So that \$223,840.91 of this money is in the true sense investment in upbuilding of the State's property. It represents a loss, it is true, to the Southern Pacific Lines, but a gain to the State Railroad, except in the item of maintenance of equipment. If, therefore, the items of Maintenance of Way and Structures and Maintenance of Equipment are considered in their true light—of investment in property—it is to be seen immediately that the cost of operation and transportation in truth was \$165,949.24.

Therefore, if the road had not been under-maintained during the years before the Board of Managers took it

over, its \$185,457.26 of gross income, less its operation and transportation expenses of \$165,949.24, as shown by the operating statement, would have left the road with a clear-cut income of \$19,508.02. While the road was put in operating condition by the Board of Managers before the Southern Pacific would operate it, the long neglect of its roadbed and line made necessary constant and continuous rehabilitation, restoration and upbuilding by the Southern Pacific Lines, after they took the road over. Such improvement of the road's property absorbed its net income of \$19,508.02, and caused the Southern Pacific to invest \$204,332.89 additional in the property. The Southern Pacific's loss, but the State's gain, except as to the item of \$165,949.24 for operation and transportation.

The Board of Managers acquired a number of city lots adjoining the land on which the passenger station is located at Palestine, Texas. This property was acquired to provide additional terminal facilities needed to care for the road's increasing business. These purchases are fully set

out in the Board's report of July 16, 1923.

The Board begs leave to report that the Southern Pacific has cleared off these additional lands, and has graveled the yards, remodeled the station platforms, and in every way put the Palestine station and yards in first class condition.

The steel rails have been properly tied and cared for, and are in first class condition. The drainage of the road is good, but the Southern Pacific is planning immediately to more adequately drain the property from one end of the line to the other.

The bridges are in good condition. The terminals at Rusk have been improved and put in better condition. The Maydelle station has been improved. All station and road signs are painted and maintained in accordance with the Southern Pacific standards. All cattle guards and wing fences are well maintained, painted and numbered. There are but comparatively few bad ties, and the insertion of new ties is going forward constantly. Train service is adequate and satisfactory to the patrons.

The Legislature appropriated \$25,000 for the rebuilding of the State Railroad by the Board of Managers. There have been no subsequent legislative appropriations made to the road. The Board of Managers now has on hand in cash to its credit with the Comptroller, the sum of \$34,086.60, as evidenced by Comptroller's certificate attached. In March, 1925, the road will have been in possession of the Board of Managers, under the Act of March 12, 1921, four years. It is to be seen, therefore, that after practically four years of operation the Board has on hand \$9,068.60 more money than was appropriated originally for its use in restoring the road.

In addition, it is estimated that approximately \$300,000 has been saved to the State during the four years of the Board's administration, through stoppage of the annual operating losses, which, by the road's record, were annually growing greater. Assuming the road's operating losses to have continued no greater than in preceding years, the measure of the saving by the operating lease with the Southern Pacific Lines by the time it expires, will be \$400,000 in operating losses on the road.

Even much greater saving to the State has been made in the up-building and betterment of the road's physical condition. Reference is made to the House and Senate Journals when on several occasions the road was offered for sale at any amount the buyer would pay for it, if such buyer would agree to operate the railroad. Governor Neff, in a message to the Legislature February 12, 1921, in part said:

"Every time a wheel has turned since the construction of this road, thirteen years ago, it has thrown the State deeper into debt. . . . It seems to me that it has been demonstrated beyond a doubt that this railroad never has been, is not now, and never will be capable of sustaining itself. This annual drain of money on the public treasury should be no longer permitted. To do so, would be unbusiness-like and unjust to the tax-paying citizens of this State."

From this it is to be seen that the railroad was on the point of being junked when legislated into the hands of the Board of Managers for administration. With the new terminal facilities acquired at Palestine, the new 80-pound rail with which the road is relaid, improved station facilities at all points, and the first class condition of the road and its terminals throughout, the Board of Managers is of the opinion that the road is now worth \$1,000,000, or more.

In which event, it therefore is to be seen that the Board of Managers has saved to the State of Texas, as set out above, \$400,000 in operating losses, and has made a clear gain of \$1,000,000 in the value of the property saved from being abandoned or junked, as had been recommended before it was legislated into the hands of the Board of Managers.

For the month of November, 1924, over and above all costs of restoration and rehabilitation and operating expenses, the railroad showed a net clear profit.

The Board of Managers is unanimously of the opinion that the State of Texas should not operate a railroad of any kind, nor should it operate the Texas State Railroad. The Board unqualifiedly and unanimously, therefore, recommends the sale of the State Railroad at the first advantageous opportunity. The Board

will continue to make every possible

effort to sell it, as it is expressly authorized by the Act of the Legislature to do. The constantly improving physical condition of the road is correspondingly bettering the opportunity of its sale.

Politicians in the recent political campaign charged that through its chairman, Lynch Davidson, the Board of Managers had sold off the State Railroad's assets and left nothing but the right of way and roadbed; in other words, had utterly destroyed the railroad. There are many people in Texas, perhaps, who believe these false and malicious statements. The Board, therefore, feels that it is entitled to verification of the reports made herein and heretofore concerning the road's condition.

The Board requests, therefore, that such joint committee from the House and the Senate as in the wisdom of the two honorable bodies be deemed necessary, inspect the railroad for the purpose of checking up the report here and reports heretofore made concerning its physical condition and the facts as stated.

The Board further respectfully requests that when such committee has made its inspection of the property, if it finds this report correct,

that same be affirmed and confirmed. If it finds this report and reports heretofore made in any respect untrue or incorrect, that it by resolution or by any other such means as it may deem proper, point out such incorrect or inaccurate statements as it may find in such report or reports.

The Board requests that this, its report to Your Excellency and the Legislature of its custodianship of the Texas State Railroad, be printed in the Journals of both houses, so that the same may be available to the people of Texas and to succeeding administrations.

The Board of Managers, as provided by law, submits this report to Your Excellency and to the Legislature of Texas, showing the manner in which the Board has performed its duties under the laws in caring for the State's property, viz: the Texas State Railroad, thirty-two and a fraction miles in length, operated from Rusk to Palestine.

Respectfully,
Board of Managers, Texas State Railroad.

LYNCH DAVIDSON, Chairman.

J. A. GLEN.

E. C. DURHAM.

Attest: Edw. Kilman, Secretary.

STATEMENT OF BOARD OF MANAGERS TEXAS STATE RAILROAD IN ACCOUNT APPROPRIATION C-3524.

1924

June 30, Balance in treasury.....\$34,937.35

DEPOSITS—NONE.

WARRANTS APPROVED.

July 15,	Edw Kilman, Secy.,	Salary Month of June.....	\$ 75.00
Aug. 5,	Edw. Kilman, Secy.,	Salary month of July.....	75.00
Sept. 5,	Edw. Kilman, Secy.,	Salary month of Aug.....	175.00
Oct. 21,	Edw. Kilman, Secy.,	Salary month of Sept.....	175.00
Nov. 5,	Edw. Kilman, Secy.,	Salary month of Oct.....	175.00
Nov. 5,	Western Union Telegraph Co.		.75
Dec. 10,	Edw Kilman, Secy.,	Salary month of Nov.....	175.00

Total warrants issued \$ 850.75

Dec. 31, Balance in treasury.....\$34,086.60

STATEMENT OF BOARD OF MANAGERS TEXAS STATE RAILROAD IN ACCOUNT THE STATE NATIONAL BANK OF HOUSTON.

1924

June 30, Balance on account.....\$ 147.68

DEPOSITS—NONE.

CHECKS—NONE.

Dec. 31, Balance in bank\$ 147.68

Dec. 31, Total amount to credit of Texas State Railroad.....\$34,234.28

BOARD OF MANAGERS, TEXAS STATE RAILROAD.

By (Signed) EDW. KILMAN, Secretary.

I certify that the above treasury balance of \$34,086.60 is correct as of December 31, 1924, on Appropriation C-3524.

(Signed) LON A. SMITH, Comptroller.

United States Dept. of Agriculture
Bureau of Public Roads

Washington, D. C., Dec. 16, 1924.

Mr. R. M. Hubbard, Chairman State Highway Commission;

Mr. Lynch Davidson, Chairman Board of Managers, Texas State Railroad, Houston, Texas.

Gentlemen:

In 1921 the State Highway Department of Texas requested steel rail for relaying a railroad owned by the State of Texas running from Rusk, Texas, to Palestine, Texas. The value of this rail was charged to the State against the State's allotment in the same manner as was the value of all surplus war materials shipped to the states. This rail was put into service by the State, and the line used for transporting road material, deposits of which exist in large quantities in the vicinity of Rusk, as well as for other general purposes.

Under the situation as it exists, it does not appear to me that the question of jurisdiction of this steel rail is material as between different State agencies, since the property is in the possession of the State and is State property. The records clearly indicate that the State Highway Department and the Board of Managers of the Texas State Railroad worked together to rehabilitate this railroad for the purposes herein set forth. If, for better administration, it should be necessary for the State Highway Department to transfer this material to the jurisdiction of the Board of Managers of the Texas State Railroad, this would seem to me to contravene no Federal law, since the property does not pass from the State. Should the question of the disposal of the railroad as a whole be at issue, and the

road actually disposed of, the intent of the opinion of the Attorney General dated June 23, 1923, copies of which have been forwarded to your State, would seem to be satisfied by crediting to the road funds of the State an amount from the proceeds of the sale equal to the fair value of this rail as first laid.

The records here show that the transfer of this rail was made to the State under the provisions of the Kahn Act, which provided for the payment of 20 per cent of the estimated value of the property against which the freight charges paid by the shipper might be set off. This Act was preceded and succeeded by other Acts providing for the free distribution of war materials to the states through the state highway departments. The value of the rail as fixed at the time of the transfer was \$35.00 per ton.

This letter is written at the request of Mr. Lynch Davidson, who is Chairman of the Board of Managers, to state the viewpoint of this Bureau with reference to the status of this particular property.

Yours very truly,

(Signed) THOS. H. MacDONALD.

Chief of Bureau.

I certify that the above is a true and correct copy of a letter written by Thos. H. MacDonald, Chief of Bureau of Public Roads, United States Department of Agriculture, to Mr. Lynch Davidson, Chairman Board of Managers, Texas State Railroad, Texas, dated December 16, 1924.

(Signed) EDW. KILMAN.

Subscribed and sworn to me this the 2nd day of January, A. D. 1925.

(Signed) ROSE SMITH,

(Seal) Notary Public, Harris County, Texas

TEXAS STATE RAILROAD.

(Texas and New Orleans Railroad Company, Lessee.)

Report of Operations, Period of November 5, 1921,
to November 30, 1924.

Income.

Railway operating revenues	\$185,427.26
Property rentals	30.00

Total railway operating revenues

\$185,457.26

Expenditures.

Operating Expenses:

Transportation	\$154,470.15
Equipment rentals	11,362.37
General expense	116.72

Total operating expenses

\$165,949.24

Restoration and Rehabilitation:

Way and structures	\$172,839.96
Maintenance of equipment	51,000.95

Total Restoration and Rehabil-
itation

\$223,840.91 \$389,790.15

Expended by Southern Pacific for
rehabilitation and operating, in
excess of income

\$204,332.89

Change in Librarian Appointment.

Senator Berkeley moved that the name of Miss Dorthy Rousseau be substituted for that of Miss E. Rupert as Senate Librarian, Miss Rupert being unable to accept the appointment, as tendered to her.

Oath Administered to Officers.

The oath of office was here administered to the following officers of the Senate, who have not before assumed the oath: Lillian E. Miller, George McDonald, Kathryne Bramlett, C. J. Herrington, Carl C. Boes and Ann Eagan.

Executive Session.

Senator Witt moved that the Senate resolve into executive session at 4 o'clock today to consider nominations by the Governor. The motion was adopted.

Recess.

On motion of Senator Witt the Senate, at 12 m. recessed until 3 o'clock today.

After Recess.

The Senate was called to order by Lieutenant Governor Davidson.

S. C. R. No. 7.

By Senator Davis:

S. C. R. No. 7, A concurrent resolution providing for counting vote of Governor and Lieutenant Governor.

Be it Resolved by the Senate of Texas, the House of Representatives concurring, That there shall be held in the Chamber of the House of Representatives at 10:30 o'clock a. m., Monday, January 19th, 1925, a joint session of the Legislature for the purpose of receiving and considering the returns of the election for the executive officers of the State of Texas, and opening said returns and publishing said returns and the results thereof, in the presence of both Houses of the Legislature, and for the further purpose of then and there determining what persons received the highest number of votes for the said respective executive offices of the State of Texas, and for the further purpose of making declaration as to the election of said executive officers of the State of Texas.

The resolution was read and adopted.

Bills and Resolutions.

(By Unanimous Consent.)

By Senators Floyd and others:

S. B. No. 63, A bill to be entitled "An Act for the purpose of promoting the public school interests of rural schools and those of small towns, of aiding the people to provide adequate school facilities for the education of their children, by the appropriation of One and a Half Million (\$1,500,000.00) Dollars per year, or so much thereof as may be necessary, for the next two fiscal years, ending August 31, 1926, and August 31, 1927, respectively, allowing the State Board of Education and the State Superintendent of Public Instruction to aid such schools in accordance with the conditions herein specified; providing how such schools shall be located and school buildings constructed, furnished, and maintained; providing certain prerequisites for the granting of such aid, and providing no school having over four hundred scholastics, or any school located in a district of over five hundred (500) scholastics, shall receive such aid, giving preference to all school districts in which the available school fund together with the local district tax will not maintain the school six months in the year; limiting the amount which any school may receive providing for aid for schools where extraordinary conditions prevent schools from meeting stated requirements; providing assistance for rural schools as will afford instructions and demonstrations in home and farm vocations, according to plans approved by the State Department of Education; providing assistance for small districts which effect consolidation during the next two fiscal years; providing for the expenses of administration by action of the State Board of Education; providing for reports to be made to the State Superintendent of Public Instruction and to the State Board of Education; providing for the manner of payment and disbursement of all money granted under the provisions of this Act; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Read first time and referred to Committee on Education.

By Senator Stuart:

S. B. No. 64, A bill to be entitled "An Act to define, regulate and license real estate brokers, real estate

agents and real estate salesmen within the State of Texas, to create a State Board of Examiners to operate in conjunction with the office of the Commissioner of the General Land Office, and providing for the appointment of such examiners and fixing their qualifications, compensation and term of office, and providing certain qualifications of real estate brokers, real estate agents and salesmen before receiving license, and providing for certain license fees to be paid by each applicant for real estate license, and also providing for the giving of bond for the protection of the public from fraud and misrepresentation by such real estate broker, salesman or agent, and providing for the revoking of license by the State Board of Examiners and stating the grounds for such action, and to provide a penalty for the violation of the provisions hereof. Repealing all laws in conflict herewith, and providing that the invalidation by the courts of any section or provision of this Act shall not invalidate any other provision hereof."

Read first time and referred to Committee on State Affairs.

By Senator Triplett:

S. B. No. 65, A bill to be entitled "An Act creating and incorporating French Independent School District, in Jefferson County, Texas defining its boundaries; prescribing the manner of changing and modifying the boundaries of said school district; conferring upon said school district, except as otherwise provided in this Act, all the rights, powers, privileges and duties as are conferred and imposed by the General Laws of the State of Texas upon independent school districts; providing for a board of trustees to consist of five persons, and prescribing the qualifications and terms of office for members thereof; vesting said trustees and board of trustees, except as otherwise provided in this Act, with all the rights, powers, privileges and duties as are conferred and imposed by the General Laws of this State upon trustees and boards of trustees of independent school districts; vesting the management and control of the public free school in said school district in the board of trustees as provided in this Act; providing for the election of a board of trustees and their successors in office; providing that said board of trustees shall be a body politic and corporate in law, and as such, may con-

tract and be contracted with, may sue and be sued, may plead and be impleaded, and may receive any gift, grant, donation or devise made to and for the use and benefit of the public free schools in said school district; vesting in said school district, its board of trustees and their successors in office with absolute title to all properties and school funds heretofore vested in, belonging to and accrued to the heretofore existing Common School District No. 5 of Jefferson County, Texas; validating all bond and maintenance taxes heretofore voted, authorized and levied in and for said heretofore existing school district and continuing the same in full force and effect until modified or abolished as provided in this Act; validating all bonds authorized, issued and assumed by and upon behalf of said heretofore existing school district; providing that this Act shall not impair or invalidate any bonds, contracts, obligations and debts of said heretofore existing school district; providing that all bonds, contracts, obligations and indebtedness of said heretofore existing school district shall constitute valid and binding obligation upon said school district as created by this Act, and that the same shall be assumed, paid off and discharged by the school district as created by this Act; providing for an assessor and collector of taxes and the compensation and fees that shall be paid thereunder; providing for a Secretary of said board of trustees and the compensation to be paid thereunder; providing for suitable offices, books, furniture and office equipment for said Secretary and said assessor and collector of taxes; providing for the transportation of school children; providing that this Act shall, except as herein otherwise provided, be cumulative of all the General Laws of the State of Texas applicable to independent school districts, and that in case of conflict the provisions of this Act will and shall control; repealing all laws and parts of laws of this State in so far as they are or may be in conflict with this Act; providing that in case any clause, section or sections of this Act shall be held by the courts to be unconstitutional or ineffective, such decision by the courts shall not affect or invalidate the remaining sections and provisions of this Act; and declaring an emergency."

Read first time and referred to Committee on Education.

S. C. R. No. 8.

By Senator Davis:

Whereas, The Congress of the United States has, under the fifth Article of the Constitution of the United States, proposed an amendment to said Constitution, as Article 20 in the following words, to-wit:

Article.

"Section 1. The Congress shall have power to limit, regulate and prohibit the labor of persons under eighteen years of age."

"Section 2. The power of the several states is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give the effect to legislation enacted by the Congress."

And whereas, It is the purpose, intention and conclusion of the Legislature of the State of Texas that said proposed amendment should not be ratified, and should be rejected;

Therefore, Be it resolved by the Senate of Texas, the House of Representatives concurring, in Regular Session assembled, that the said proposed amendment to the Constitution of the United States be, and the same is hereby, in all things rejected, and ratification of said amendment is refused.

Be it further resolved, That a certified copy of this resolution be forwarded by the Secretary of State of the State of Texas to the President of the United States and to the Secretary of State of the United States at Washington, D. C.; and the Secretary of State of the State of Texas is hereby authorized, requested and directed to return to the Secretary of State of the United States at Washington, D. C., the original document, or documents, heretofore received from the Secretary of State of the United States at Washington, D. C., by the Secretary of State at Austin, Texas, concerning, relating, or referring to the proposed amendment to the Constitution of the United States known and described as Article 20, and above set forth in this resolution.

The resolution was read, and Senator Davis moved that the resolution be made a special order for next Wednesday morning following the conclusion of the morning call.

Time for Executive Session Changed.

Senator Wood moved to reconsider the vote by which the Senate was

to hold an executive session this day at 4 o'clock.

The motion was adopted.

Senator Wood moved that the Senate hold an executive session at 2:30 o'clock Monday afternoon, January 19, 1925, for the purpose of considering nominations by the Governor.

The motion was adopted.

Executive Messages.

The Chair here laid before the Senate the following several messages from the Governor, they having been received this afternoon by messenger from the Governor's office.

Executive Department,

Austin, Texas, January 15, 1925.

To the Members of the Texas Senate, Thirty-ninth Legislature.

Gentlemen: Yesterday, in my list of appointees, sent to your honorable body for confirmation, was included the name of Dr. R. E. B. Bledsoe as a member of the State Board of Medical Examiners.

I now desire to withdraw from your consideration the name of Dr. Bledsoe, for the reason that he wired me early this morning that it would be impossible for him to serve as a member of the Board indicated. I have no name, at this time, to present for this vacancy.

Respectfully submitted,

PAT M. NEFF, Governor.

Executive Department,

Austin, Texas, January 16, 1925.

To the Members of the Texas Senate, Thirty-ninth Legislature.

Gentlemen: In sending up my list of recess appointment for your advice, consent, and confirmation in the miscellaneous list of appointments, I inadvertently designated Grover C. Morris, Devine, Texas, and Tom Garrard of Midland, Texas, as Assistants Attorney General for the Court of Criminal Appeals, when it should have been Attorney for the State before the Court of Criminal Appeals of Texas, Tom Garrard, Midland, October 3, 1923, Assistant Attorney for the State before the Court of Criminal Appeals; Grover C. Morris, Devine, August 23, 1923.

I, therefore, ask a correction, advice, consent and confirmation, as above indicated.

Respectfully submitted,

PAT M. NEFF, Governor.

Executive Department,

Austin, Texas, January 16, 1925.

To the Members of the Texas Senate, Thirty-ninth Legislature.

Gentlemen: In my list of appointees, sent to your honorable body for confirmation, I inadvertently omitted the name of George D. Armistead, heretofore appointed by me as a member of the State Highway Commission on June 18, 1923.

Although Mr. Armistead has resigned, I feel that it is proper that his name should be submitted by me for your confirmation.

Respectfully submitted,

PAT M. NEFF, Governor.

Executive Department

Austin, Texas, January 16, 1925.

To the Members of the Senate Thirty-ninth Legislature.

Gentlemen: I hereby transmit to you, as provided by law, for your consideration, a copy, the original having been sent to the House of Representatives, of a joint resolution passed on June Sixth, 1924, by the Senate and House of Representatives of the American Congress, proposing an amendment to the Constitution of the United States, which shall give Congress the power to limit, regulate, and prohibit the labor of persons under eighteen years of age.

In keeping with the request of the Secretary of State of the United States, this matter is submitted to you for such action as you may be pleased to take with respect thereto.

Respectfully submitted,

PAT M. NEFF, Governor.

SIXTY-EIGHTH CONGRESS OF THE UNITED STATES OF AMERICA;

At the First Session,

Begun and held at the City of Washington, on Monday, the third day of December, one thousand nine hundred and twenty-three.

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

"Article—

"Section 1. The Congress shall have power to limit, regulate, and prohibit the labor of persons under eighteen years of age.

"Section 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress."

F. H. GILLETT,

Speaker of the House of Representatives.

ALBERT B. CUMMINS,

President pro tempore of the Senate.

I certify that this Joint Resolution originated in the House of Representatives.

WM. TYLER PAGE, Clerk.

Executive Department,

Austin, Texas, January 15, 1925.

To the Members of the Thirty-ninth Legislature.

Gentlemen: I hereby transmit to you the treaty agreed upon by the Commissioners from Texas and New Mexico, approved by the representatives of the United States, relative to the division of the water of the Pecos River, in which matter, by my appointment, the State of Texas was represented by the Honorable R. E. Thomason of El Paso, Texas.

In keeping with the resolution heretofore passed by the Legislature of the State of Texas, it was agreed that if a treaty or compact, as here presented, was agreed upon by representatives of the two States, said compact should be submitted to the Governors of the respective States, and by them submitted to the Legislature for ratification. In keeping with that provision, I transmit this compact to you for your consideration.

Respectfully,

PAT M NEFF, Governor.

PECOS RIVER COMPACT.

The State of Texas and the State of New Mexico having resolved to enter into a compact, under the Acts of their respective Legislatures, have, through their governors, appointed as their commissioners: R. E. Thomason for the State of Texas and Richard H. Hanna for the State of New Mexico, who, after negotiations participated in by C. T. Pease, appointed by the Secretary of the

Interior of the United State, as a representative of the Bureau of Reclamation, have agreed upon the following articles:

Article I.

Present rights to the beneficial use of the water of the Pecos River and its tributaries are unimpaired by this compact, the major purposes of which are to provide for the equitable division and apportionment of the unappropriated and flood waters of the Pecos River system; to promote interstate comity; to remove causes of present and future development of the Pecos River Basin by the conservation and economical distribution of the waters therein.

Article II.

In this compact:

(a) The State of New Mexico and the State of Texas are designated respectively as "New Mexico" and "Texas" and these terms include the citizens and corporations of each State.

(b) The term "Pecos River System" means the Pecos River and all of its tributaries, including springs and swamps, from its sources in New Mexico to the Kansas City, Mexico and Orient Railroad as now constructed between the towns of Alpine and Sherwood in Texas.

(c) The term "Pecos River Basin" means all of the drainage area of the Pecos River system.

(d) The term "Upper Basin" means that part of the Pecos River Basin above and north from a due east and west line crossing the Pecos River on the boundary between townships six (6) and seven (7) north, range twenty-two (22) east of the New Mexico Principal Meridian.

(e) The term "Middle Basin" means that part of the Pecos River Basin below and south from a prolongation of the boundary line between townships six (6) and seven (7) north, range twenty-two (22) east of the New Mexico Principal Meridian to the Texas-New Mexico state line.

(f) The term "Lower Basin" means that part of the Pecos River Basin within the State of Texas lying above and northwest from the Kansas City, Mexico and Orient Railroad.

(g) The term "domestic use" shall include the use of water for

household, stock, municipal, milling, industrial, and other like purposes.

(h) The term "Carlsbad Project" means certain tracts of land in townships twenty (20), twenty-one (21), twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25), and twenty-six (26), south, ranges twenty-six (26), twenty-seven (27), twenty-eight (28) and twenty-nine (29) east of the New Mexico Principal Meridian, and all reservoirs, dams, canals, drains, and other works, constructed or that may hereafter be constructed, by the United States for the reclamation, use and benefit thereof.

Article III.

The right to appropriate and use for irrigation and domestic purposes the natural flow of the Pecos River system in the Upper Basin shall not be limited or abridged by this compact but no permit or permits for the construction of any additional storage reservoir or reservoirs or for the enlargement of any existing reservoir within the Upper Basin, having an aggregate capacity or capacities of more than five thousand (5,000) acre feet, shall be granted by the State of New Mexico prior to the first day of January, 1940.

Article IV.

Within the Middle Basin New Mexico shall have in perpetuity indefeasible rights in the waters of the Pecos River system for the following purposes:

1. To divert and use from the natural flow of the Pecos River and from storage reservoirs, or both, sufficient water, whenever available, for all domestic purposes and the irrigation of seventy-six thousand (76,000) acres of land.

2. To construct, maintain and operate reservoirs on the Pecos River, at such points as it may determine to be most advantageous and feasible for the conservation (including hold-over storage), regulation and control of such quantities of water as it deems necessary for the irrigation of twenty-five thousand (25,000) acres of land included in the Carlsbad Project and for the irrigation of ten thousand (10,000) acres of land on the Fort Sumner Project in DeBaca County.

3. To construct, maintain and operate a reservoir of not more than five thousand (5,000) acre feet ca-

capacity at such point on the Penasco River as it may select for the irrigation of lands in the vicinity of the town of Hope, Eddy County, New Mexico.

Article V.

Texas shall at all times, subject to the provisions of Articles III, IV and IX of this compact, have the right:

1. To divert all of the natural flow of the Pecos River system in the Lower Basin for domestic and agricultural purposes.

2. To build, maintain and operate a storage reservoir or reservoirs at or below what is commonly known as the Red Bluff Reservoir site, in Eddy County, New Mexico, for the use and benefit of forty thousand (40,000) acres of land in Loving, Reeves, Ward, Crane and Pecos Counties, Texas, and to store any surplus waters to which Texas may be entitled, and to acquire by purchase, prescription or the exercise of eminent domain, such rights of way, easements, or lands as may be necessary for the construction, maintenance and operation of said reservoir; provided, that said reservoir shall be constructed and in operation on or before the first day of January, 1940, and, provided further, that the construction, maintenance and operation of said reservoir shall not vest in Texas any prior, preferred or superior servitude upon or claim or right to the waters of the Pecos River system in New Mexico.

Article VI.

All surplus waters flowing in the Pecos River within the Middle and Lower Basins, over and above that required for the adequate and proper irrigation of seventy-six thousand (76,000) acres of and in the Middle Basin and forty thousand (40,000) acres of land in the Lower Basin, shall be divided equally between the signatory states. All permits issued by either New Mexico or Texas, prior to January 1, 1940, for the use of such surplus waters shall specifically state that the rights granted by said permits are and shall be subservient to prior rights for seventy-six thousand (76,000) acres of land in the Middle Basin and forty thousand (40,000) acres of land in the Lower Basin.

Article VII.

1. Texas and New Mexico, at their joint expense, shall maintain a stream gaging station upon the Pecos River at or near Malaga, Eddy County, New Mexico, for the purpose of ascertaining the amount of surplus water flowing in said river. The location of said gaging station may, by mutual consent, be changed from year to year as conditions of the river may require.

2. The State Engineer of New Mexico and the Board of Water Engineers for Texas shall make provisions for the cooperative gaging of and the details of operating said station and for the exchange and publication of records and data relative to the discharge of the river at said station.

Article VIII.

The use of any impounded water of the Pecos River system for the generation of electrical power shall be subservient to the use and consumption of such water for agricultural and domestic purposes and shall not interfere with or prevent the use for such dominant purposes.

Article IX.

Notwithstanding any limitations or restrictions, either expressed or implied, in this compact upon the area to be irrigated in the Middle Basin, New Mexico shall have the right on and after January 1, 1940, to extend and increase the irrigated area within the Middle Basin, over and above seventy-six thousand (76,000) acres, one-fifth (1-5) of an acre:

(1) For each and every acre foot that the aggregate effective storage capacity of all reservoirs, now or hereafter constructed for the use of the Lower Basin shall be less than two hundred and fifty thousand (250,000) acre feet;

(2) For each and every acre foot of the original capacity or capacities, of any and all, reservoirs, constructed for the use and benefit of the Lower Basin that have been or may be abandoned or unused for a period of five (5) years, or longer.

Article X.

Nothing in this compact shall be construed as affecting the rights of the United States of America in the waters of the Pecos River system or in the Carlsbad project.

Article XI.

It shall be the duty of the State Engineer of New Mexico and the Board of Water Engineers for Texas to supervise the carrying out of the provisions of this compact, and they may, from time to time, formulate uniform rules and regulations for that purpose, which, when promulgated by them, shall be binding until amended or until terminated by written notice by one to the other.

Article XII.

Whenever any official of either State is designated to perform any duty under this compact, such designation shall include the State official or officials upon whom the duties now performed by such designated official or officials may hereafter devolve.

Article XIII.

Should any claim or controversy arise between the signatory States: (a) with respect to the waters of the Pecos River system not covered by the terms of this compact; (b) over the meaning or performance of any of the terms of this compact; (c) as to the allocation of the burdens incident to the performance of any article of this compact; or (d) as to the construction, maintenance or operation of storage works within New Mexico for the use and benefit of Texas; the governors of the signatory states, upon the request of either of them, shall forthwith appoint commissioners with power to consider and adjust such claim or controversy, subject to ratification by the legislatures of New Mexico and Texas.

Article XIV.

Nothing in this compact shall be construed to limit or prevent either State or the United States from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under this compact or the enforcement of any of its provisions.

Article XV.

This compact may be modified or terminated at any time by mutual consent of the signatory states. In the event of such termination all rights established under it shall continue unimpaired.

Article XVI.

This compact shall become binding and operative when approved by the Legislature of each of the signatory states and consented to by the Congress of the United States. Notice of approval by the Legislature shall be given by the Governor of each State to the governor of the other State and to the President of the United States, and the President of the United States is requested to give notice to the signatory states of consent by the Congress of the United States.

In witness whereof the Commissioners have signed this compact in triplicate originals, one of which shall be deposited with the Department of Interior of the United States and one with the governor of each of the signatory states.

Done at El Paso, Texas, this nineteenth day of December, A. D. 1924.

RICHARD H. HUNNE,
Commissioner for New Mexico.

R. E. THOMASON,
Commissioner for Texas.

Approved: C. S. Pease.

Adjournment.

On motion of Senator Fairchild, the Senate, at 3:40 o'clock p. m., adjourned until 10 o'clock tomorrow morning.

APPENDIX.**Committee Reports.**

(Floor Report.)

Senate Chamber,

Austin, Texas, January 16, 1925.

Hon. T. W. Davidson, President of the Senate.

Sir: Your Committee on State Affairs to whom was referred Senate Bill No. 62,

Has had the same under consideration and begs to recommend that the same be printed in the Journal but not otherwise printed.

FLOYD, Vice Chairman.

Enrolling Committee Reports.

Committee Room,,

Austin, Texas, January 15, 1925.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Enrolled Bills have carefully examined and compared

Senate Bill No. 1, and find the same correctly enrolled, and have this day at 3:45 o'clock p. m. presented same to the Governor for his approval.

FLOYD, Chairman.

Committee Reports.

Committee Room,

Austin, Texas, January 15, 1925.

Hon. T. W. Davidson, President of the Senate.

Sir: We, your Committee on Enrolled Bills have carefully examined and compared

Senate Bill No. 2, and find the same correctly enrolled, and have this day at 3:45 o'clock p. m. presented same to the Governor for his approval.

FLOYD, Chairman.

FIFTH DAY.

Senate Chamber,

Austin, Texas,

Saturday, January 17, 1925.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Davidson.

The roll was called, a quorum being present, the following Senators answering to their names:

Berkeley.	Parr.
Bledsoe.	Pollard.
Bowers.	Price.
Davis.	Real.
Fairchild.	Reid.
Floyd.	Smith.
Hardin of Erath.	Strong.
Hardin of Kaufman	Stuart.
Holbrook.	Triplett.
Miller.	Ward.
Moore of Hunt.	Woodward.
Parnell.	

Absent.

Russek.	Wood.
Witt.	

Absent—Excused.

Bailey.	Murphy.
Lewis.	Wirtz.
Moore of Cooke.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with, on motion of Senator Strong.

Personal Privilege.

Senator Strong, Chairman of the Committee on Nominations by the